

GRANTING RIGHT OF WAY OVER ABANDONED MILITARY RESERVATION

JANUARY 29, 1925.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. HILL of Washington, from the Committee on the Public Lands, submitted the following

REPORT

[To accompany H. R. 10687]

The Committee on the Public Lands, to whom was referred the bill (H. R. 10687) granting to the county authorities of San Juan County, State of Washington, certain described tracts of land on the abandoned military reservations on Lopez and Shaw Islands as a right of way for county roads, having considered the same, report it to the House with the following amendments and with the recommendation that as so amended it do pass:

1. Page 1, strike out all of lines 3, 4, 5, 6, and 7 and insert in lieu thereof the following:

That a right of way for the construction of highways over the following described tracts of land on the abandoned military reservations on Lopez and Shaw Islands, county of San Juan, State of Washington, is hereby granted.

2. Page 3, line 11, after the words "thirty-four," strike out the word "thousand" and insert "township 36 north of range 2 west, Willamette meridian."

3. Amend the title of the bill to read as follows:

Granting to the county authorities of San Juan County, State of Washington, a right of way for county roads over certain described tracts of land on the abandoned military reservations on Lopez and Shaw Islands, and for other purposes.

The necessity for this legislation is set forth in the following report of the Secretary of the Interior thereon:

DEPARTMENT OF THE INTERIOR,
Washington, January 24, 1925.

Hon. N. J. SINNOTT,
Chairman Committee on Public Lands,
House of Representatives.

MY DEAR MR. SINNOTT: I am in receipt of your request for report on H. R. 10687, granting to the county authorities of San Juan County, State of Wash-

ington, certain described lands on the abandoned military reservations on Lopez and Shaw Islands as a right of way for county roads and other purposes.

The lands within the Lopez and Shaw Islands Military Reservations, reserved from the public domain by Executive order of July 2, 1873, were placed under the control of the Secretary of the Interior by Executive order of August 13, 1923, under authority of the act of July 5, 1884 (23 Stat. 103), for disposition in the manner provided by law. The said act of July 5, 1884, directs the survey and appraisal of such lands and their offering at public sale. The areas included within Lopez Island have been surveyed and appraised, and those within Shaw Island have been surveyed and instructions have been issued for their appraisal.

The eighth section of the act approved July 26, 1866 (14 Stat. 253), provides "That the right of way for the construction of highways over public lands not reserved for public uses is hereby granted," and this provision has been carried into the Revised Statutes of the United States as section 2477.

As the lands within the abandoned military reservations on Lopez and Shaw Islands were reserved for a public use, they were not affected by either the eighth section of the act of July 26, 1866, or section 2477, United States Revised Statutes, and as the act of July 5, 1884 (23 Stat. 103), does not restore such lands to the public domain, but requires their disposition in a certain manner, it is doubtful whether, in the absence of legislation, such lands are now or at any time will become subject to the provisions of section 2477, United States Revised Statutes.

I have, therefore, no objection to the enactment of a law that will subject such lands to a right of way for public highways, but it is believed that in order to secure uniformity it would be better to extend the provisions of section 2477, United States Revised Statutes, to such lands.

A distinction may be made between the grant of the lands for public-road purposes and the granting of a right of way for public highways over such lands. When a highway is abandoned by the local authorities the title to the roadbed passes to the owner of the land over which such road is located; but in its present form the bill if enacted would convey to the county authorities a base or qualified fee with an implied condition of reverter, and in the event of a forfeiture the title would revert to the Government. I suggest, therefore, that lines 3 to 7, page 1, be stricken from the bill, and the following substituted in lieu thereof:

"That a right of way for the construction of highways over the following-described tracts of land on the abandoned military reservations on Lopez and Shaw Islands, county of San Juan, State of Washington, is hereby granted."

The title of the bill should be amended accordingly.

It is also suggested that in line 11, page 3, of the bill, after "thirty-four," the word "thousand" be omitted and there be inserted "township 36 north of range 2 west, Willamette meridian."

If amended in the manner above suggested, no objection will be interposed to the enactment of the bill, and in the event that the proposed legislation becomes a law prior to their sale the lands will be disposed of subject to such right of way.

Very truly yours,

HUBERT WORK.

